

# Rulings of the Tax Commissioner

**Document Number:** 04-96  
**Tax Type:** Localities Taxing Powers; Miscellaneous Taxes  
**Brief Description:** Virginia Land Conservation Incentives Act of 1999  
**Topics:** Exemptions; Property Subject to Tax  
**Date Issued:** 09/08/2004

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September 8, 2004

Re: Ruling Request: Virginia Land Conservation Incentives Act of 1999

Dear \*\*\*\*\*:

This will reply to your letter in which you request a ruling regarding the Virginia Land Conservation Incentives Act of 1999 (the "Act"). I apologize for the delay in this response.

## FACTS

The \*\*\*\*\* (the "County") has established a Purchase of Development Rights Program that allows landowners to grant an unconditional conservation easement to the County. You ask if the County is an instrumentality of the Commonwealth for purposes of the Act.

## RULING

The Act, codified at *Va. Code* § 58.1-510, *et seq.*, provides a credit for 50% of the fair market value of real property or an interest in real property donated for qualifying land conservation purposes. Specifically, *Va. Code* § 58.1-512(B)(3) provides that "[q]ualified donations shall be eligible for the tax credit . . . if such donations are made to the Commonwealth of Virginia, *an instrumentality thereof*, or a charitable organization described in § 501(c)(3) of the U.S. Internal Revenue Code of 1986, as amended . . . ." [Emphasis added.]

It has long been settled that localities are political subdivisions of the Commonwealth, capable of exercising only those powers that the legislature has delegated to them. See *Southern Railway Co. v. City of Danville*, 175 Va. 300, 305 (1940). As such, the County is an instrumentality of the Commonwealth for

purposes of the Act.

This ruling is based on the facts presented and is not intended to address whether an unconditional conservation easement granted to the County by a landowner under the Purchase of Development Rights Program is a qualified donation eligible for the credit under the Act.

The *Code of Virginia* sections cited, along with other reference documents, are available on-line in the Tax Policy Library section of the Department of Taxation's web site, located at [www.tax.state.va.us](http://www.tax.state.va.us). If you have any questions regarding this ruling, please contact \*\*\*\*\* in the Office of Policy and Administration, Appeals and Rulings, at \*\*\*\*\*.

Sincerely,

Kenneth W. Thorson  
Tax Commissioner

AR/48235B

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